

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
Signature of Sponsor

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 2822\***

**House Bill No. 2555**

by deleting all language after the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Section 62-13-102, is amended by deleting subdivision (6) in its entirety and by substituting instead the following:

(6) "Adverse facts" means conditions or occurrences generally recognized by competent licensees that have negative impact on the value of the real estate, significantly reduce the structural integrity of improvements to real property or present a significant health risk to occupants of the property.

Section 2. Tennessee Code Annotated, Section 62-13-102, is amended by deleting subdivision (11) in its entirety and by substituting instead the following:

(11) "Facilitator" means any licensee:

(A) Who assists one (1) or more parties to a transaction who has not entered into a specific written agency agreement representing one (1) or more of the parties; or

(B) Whose specific written agency agreement provides that if the licensee or someone associated with the licensee also represents another party to the same transaction, such licensee shall be deemed to be a facilitator and not a dual agent, provided that notice of assumption of facilitator status is provided to the buyer and seller immediately upon such assumption of facilitator status, to be confirmed in writing prior to execution of the contract. A facilitator may advise either or both of the parties to a transaction but cannot be considered a representative or

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advocate of either party. The term “transaction broker” may be used synonymously with, or in lieu of, “facilitator” as used in any disclosures, forms or agreements under the act.

Section 3. Tennessee Code Annotated, Section 62-13-102, is amended by deleting subdivision (12) in its entirety and by substituting instead the following:

(12) “Limited agency” means an agency relationship created for the purpose of providing real estate services in which the client’s or other party’s liability for the actions or statements of an agent, subagent or facilitator is limited to actions or statements initiated by specific instruction of the client or other party or those actions or statements about which the client or other party had knowledge.

Section 4. Tennessee Code Annotated, Section 62-13-401, is amended in the second sentence by deleting the language “considered an agent” and by substituting instead the language “considered an agent or advocate”; and by deleting the fourth sentence in its entirety.

Section 5. Tennessee Code Annotated, Section 62-13-403, is amended by deleting the first sentence in its entirety and by substituting instead the following:

A licensee who provides real estate services in a real estate transaction shall owe all parties to such transaction the following duties, except as provided otherwise by Tennessee Code Annotated, Section 62-13-405; in addition to other duties specifically set forth in this chapter or the rules of the commission:

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Section 6. Tennessee Code Annotated, Section 62-13-403, is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) To disclose to each party to the transaction timely and accurate information regarding market conditions that might affect such transaction only when such information is available through public records and when such information is requested by a party.

Section 7. Tennessee Code Annotated, Section 62-13-404, is amended by deleting subdivision (2) in its entirety and by renumbering the subsequent subdivision accordingly.

Section 8. Tennessee Code Annotated, Section 62-13-405, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) If a licensee personally assists a prospective buyer or seller in the purchase or sale of a property, and such buyer or seller is not represented by this or any other licensee, the licensee shall verbally disclose to such buyer or seller his or her facilitator, agent, subagent or designated agent status in the transaction before any real estate services are provided. Known adverse facts about a property must also be disclosed under the Tennessee Property Disclosure Act, but licensees shall not be obligated to discover or disclose latent defects in a property or to advise on matters outside the scope of their real estate license.

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Section 9. Tennessee Code Annotated, Section 62-13-405, is further amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) The disclosure of agency status pursuant to subsection (a) must be confirmed in writing with an unrepresented buyer prior to the preparation of an offer to purchase. The above disclosure of agency status must be confirmed in writing with an unrepresented seller prior to execution of a listing agreement or presentation of an offer to purchase, whichever comes first. Following delivery of the written disclosure, the licensee shall obtain a signed receipt for such disclosure from the party to whom it was provided.

Section 10. Tennessee Code Annotated, Section 62-13-405(c), is amended by deleting the language "duties and relationships" and by substituting instead the language "agency or facilitator status".

Section 11. Tennessee Code Annotated, Section 62-13-405, is amended by adding a new subsection thereto as follows:

(e) Real estate transactions involving the transfer or lease of commercial properties, the transfer of property by public auction, the transfer of residential properties of more than four (4) units, or the lease or rental of residential properties shall not be subject to the disclosure requirements of Tennessee Code Annotated, Sections 62-13-403, 62-13-404 and 62-13-405.

**House Commerce  
Committee Amendment**

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Section 12. Tennessee Code Annotated, Section 62-13-407, is amended by inserting the language "as an agent, subagent or facilitator" after the words "provides services" and before the words "shall not be liable".

Section 13 . This act shall take effect upon becoming a law, the public welfare requiring it.